



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,300	03/22/2004	Michael L. McCormick		1824

35236 7590 06/07/2006
THE CULBERTSON GROUP, P.C.
1114 LOST CREEK BLVD.
SUITE 420
AUSTIN, TX 78746

EXAMINER

KNOX, STEWART

ART UNIT PAPER NUMBER

3641

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,300

Applicant(s)

MCCORMICK, MICHAEL L.

Examiner

Stewart T. Knox

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 23-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7, 8 and 23-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kimber Model 82 U.S. Government Bolt-Action Rifle (Murtz, page 658). It is the Examiner's position that the claim language OEM (Original Equipment Manufacturer) components apply to any firearm component that can be replaced.

3. Murtz discloses a trigger group (2) for a firearm including an upper receiver (1) and lower receiver (middle portion of 16) with a trigger group receiving opening in the lower receiver. Consequently, the reference inherently discloses a method of installing a trigger group in a firearm, comprising the steps of assembling a number of trigger group components (3-7) in a trigger group module (2), separating the upper receiver, inserting the trigger group module into the receiver in an operating position (while connected to the upper receiver), and, after placing the module in the operating position, reconnecting the upper receiver.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murtz as applied to claim 1 above, and further in view of Christakos (3,785,243). Murtz inherently discloses a method of assembling a firearm having a frame made up of an upper and a lower receiver, the upper and lower receivers being separable and the upper receiver adapted to receive a barrel of the firearm, including the steps of assembling a number of trigger group components in a module housing to produce a pre-assembled trigger group module (2), placing the pre-assembled trigger group module in an operating position in the lower receiver (while attached to the upper receiver), and securing the upper receiver to the lower receiver (through at least screw 25) to enclose the module housing in the firearm. Murtz does not disclose the lower receiver being adapted to receive a butt stock of the firearm, i.e. the lower receiver and butt stock are not formed of one piece.

6. Christakos teaches a lower receiver (figure 2, element 19) that is adapted to receive a butt stock (11) of the firearm, i.e. the lower receiver and butt stock are formed of two pieces instead of one. Christakos does not explicitly state why the lower receiver and butt stock are formed of two pieces, but it appears that it is used to allow the firearm to break down into smaller pieces that facilitate easier transport, cleaning, repair, and a more modular design to the firearm. It

Art Unit: 3641

would have been obvious to one of ordinary skill in the art at the time the invention was made to form the lower receiver and butt stock of Murtz in two pieces adapted to connect together as taught by Christakos, since such a modification would provide the firearm with a modular design that is easier to transport, clean, and repair.

Response to Arguments

7. Applicant's arguments filed 4/27/2006 have been fully considered but they are only partly persuasive.

8. In regards to applicant's arguments with respect to first and second OEM trigger group pins releasing components of the module with respect to the lower receiver (claims 23-32), the Examiner is persuaded. The previous art rejections directed to claims 23-32 have been withdrawn.

9. In regards to applicant's arguments on pages 10 and 11 in reference to the upper and lower receiver, the arguments are not persuasive.

10. Firstly, the Examiner considers the middle portion of the stock with a trigger receiving opening to be a lower receiver, since it provides housing for the firing mechanism (trigger group 2) as defined by 27 C.F.R 479.11. Though it does not house the hammer, bolt, breechblock, or contain threading for the forward portion of the barrel, that job is accomplished by the upper receiver (1), and thus the upper receiver and lower receiver portion together define the receiver for the firearm as defined by the C.F.R. above. Without the middle portion of 16 defined as the lower receiver, the firearm would not have a full receiver since nothing would house the firing mechanism. That the stock and lower receiver are formed of one piece instead of two does not in

Art Unit: 3641

any way change the fact that it still provides housing for the firing mechanism as defined above. It would furthermore be obvious to one of ordinary skill in the art, as discussed above, to separate the lower portion of the firearm into more than one part for easy cleaning, repair, etc (a further example can be found in Mistretta, 5,659,992, from applicant's Information Disclosure Statement, which has a two-part butt stock and lower receiver similar to Christakos). Lastly, if the middle portion of the stock 16 were not to be considered a lower receiver, then Applicant's invention could not be considered a lower receiver either, since both serve to house the firing mechanism but not the threaded portion for attachment to a barrel.

11. In regards to applicant's arguments on pages 11 and 12, specifically in reference to parts (b), (c), and (d) of claims 1 and 6, the arguments are not persuasive.

12. Firstly, the reference inherently teaches that the upper receiver (1) must be separated from the lower receiver (middle portion of 16) in order to insert the trigger group (2) into the trigger group receiving opening in the lower receiver, because of the way the trigger group is fastened to the weapon and because no other opening is available for it to be placed in the trigger group receiving opening in the lower receiver.

13. Secondly, the reference does inherently teach placing the trigger group in an operating position and subsequently reconnecting the upper receiver and lower receiver. The trigger group module, while connected to the upper receiver, is placed in the operating position. It is noted that the claim does not state that the trigger group module cannot be or is not connected to the upper receiver at the same time that it is placed in an operating position. The upper receiver, now in position over the lower receiver, can be subsequently fastened to the lower receiver. This is an inherent teaching because there is no other way for the upper receiver and trigger group to

Art Unit: 3641

be attached – one cannot place the trigger group of Murtz in an operating position after the upper receiver has been reattached, because the screws (49) are not accessible.

14. The Examiner puts forth that a suitable amendment to overcome this art rejection might state that the trigger group is affixed to the lower receiver and not the upper receiver, and/or that the trigger group is placed in the operating position independently of the upper receiver. In general, these represent the limitations of claim 2, but any of the claims that have been objected to could be amended into claim 1 including all the limitations of any intervening claims.

Allowable Subject Matter

15. Claims 31 and 32 are allowed.

16. Claims 2-5, 7-8, and 23-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


Art Unit: 3641

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stewart T. Knox whose telephone number is (571) 272-8235. The examiner can normally be reached on Monday through Thursday, 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELLE CLEMENT
PRIMARY EXAMINER

STK